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Issued May 22, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

MANUAL OF PROCEDURE FOR THE GUIDANCE OF COMMISSIONED STATE OFFICIALS, COLLABORATING STATE CHEMISTS, AND OFFI- CIALS OF THE UNITED STATES DEPARTMENT OF AGRICULTURE IN CONNECTION WITH COOPERATIVE WORK IN THE ENFORCEMENT OF THE FOOD AND DRUGS ACT, JUNE 30, 1906.

The report of the Committee on Cooperation between the National and State Food Officials, adopted May 27, 1911, has been revised, and in its revised form is approved by the present Committee on Cooperation.

S. J. CRUMBINE, *Chairman.*
A. H. JONES.
M. E. JAFFA.
CARL L. ALSBERG.
A. S. MITCHELL.

Your committee on cooperation between the National and State food officials, appointed by the Hon. George L. Flanders, of the Association of State and National Food and Dairy Departments, in pursuance of a resolution adopted by said association at its last annual meeting in the city of New Orleans, La., respectfully submit the following report of our acts and doings as such committee:

We met upon the call of our chairman, Dr. S. J. Crumbine, of Topeka, Kans., at the office of Dr. F. L. Dunlap, of the United States Department of Agriculture, at 10 o'clock on the morning of the 23d of May, 1911, and at said meeting all the members of the committee were present except Hon. W. B. Barney, of Iowa. The United States Department of Agriculture was represented by Dr. F. L. Dunlap, and after the meeting was called to order Hon. Wilbur F. Cannon, of Denver, Colo., was duly elected secretary of the committee.

Your committee would further report that they met from day to day and their deliberations upon the various questions of cooperation between the National and State food officials continued until the 27th day of May, 1911, when they completed their labors, and, as a result of these deliberations, the following resolutions and report were unanimously adopted by the committee and were ordered to be sub-

mitted by the chairman of this committee to the next annual meeting of the Association of State and National Food and Dairy Departments, to be held at Duluth, Minn., in August, 1911, for the consideration of said association. All of which is respectfully submitted.

S. J. CRUMBINE, *Chairman*.

A. H. JONES.

WILBUR F. CANNON.

H. F. POTTER.

W. B. BARNEY.

WASHINGTON, D. C., *May 27, 1911.*

1. Whereas experience has demonstrated that close and cordial cooperation between the Federal food and drug inspection branch laboratories and the collaborating officials in the States where such laboratories are located has resulted in inestimable benefit to both the laboratories and the collaborating State officials, we therefore recommend that those cordial relations be continued to the fullest extent in all such cases, and that the closest and most cordial collaboration be maintained, not only in the analytical departments, but among the inspection force as well.

2. We recommend that the Secretary of Agriculture be requested to cause instructions to be issued to all food and drug inspectors operating under the national food and drugs act to the effect that whenever violations of the State food and drugs acts come under their observation they shall report the same to the commissioner or collaborating official in that State. It is further recommended that all collaborating State officials in the several States be requested to transmit immediately to the Secretary of Agriculture information as to violations of the national law or information which may lead to the discovery of such violations, where such official may for any reason be unable to handle such case satisfactorily or expeditiously.

3. Whereas Regulation 4 of Circular No. 21 prescribes that:

Unless otherwise directed by the Secretary of Agriculture, the methods of analysis employed shall be those prescribed by the Association of Official Agricultural Chemists and the United States Pharmacopœia,

your committee on cooperation requests that all collaborating chemists be supplied by the Secretary of Agriculture with the methods of analysis employed in the Bureau of Chemistry in the examination of foods and drugs, where methods have received the approval of the Secretary of Agriculture, and are not those methods prescribed by the A. O. A. C. and the United States Pharmacopœia.

We recommended that the Secretary of Agriculture be requested to send out to all collaborating officials such confidential information concerning matters of general interest affecting the enforcement of the national food and drugs act as may be of assistance to the collaborating officials in the performance of their duties.

It is further recommended that the collaborating officials be requested to send to the Secretary of Agriculture, and to other collaborators in the several States, all new information of value and general interest pertaining to their official work and investigations.

4. We recommend that the Secretary of Agriculture invite the various collaborating State officials to correspond with his department in all matters requiring information or advice, and urge upon them the desirability of interchanging ideas and information upon all matters pertaining to the enforcement of the national food and drugs act.

5. We recommend that, where perishable food or drug products have entered into interstate commerce and are found or believed to be unfit for food or drug purposes, and there is a reasonable doubt as to the condition of such product at the time of shipment or manufacture, full information concerning the case to be referred to the State official in whose State the shipment originated as soon as the first steps looking to the condemnation of such product have been taken. This State official should immediately investigate the source of such product and the sanitary conditions under which it is manufactured or produced, and immediately submit all information obtained in said investigation to the State or Federal official referring the case.

6. It is suggested by this committee that if any collaborating State official can place his inspection force at the service of the Secretary of Agriculture to aid in the enforcement of the National Food and Drugs Act, this service be proffered for such use as the occasion may demand.

7. Whereas many of the States which have efficient food laws and food control do not have laws preventing adulteration of drugs or controlling the great evil of drug substitution: Therefore,

We recommend that this association pledge to the food commissioners in States which do not have efficient drug laws its support and assistance in their effort to secure proper drug legislation.

And whereas we believe that concerted action will advance drug control throughout the country and render the sale of fraudulent and fake medicinal preparations increasingly difficult, if not impossible, we recommend further,

That commissioners be urged to prepare circulars of confidential information concerning illegal drugs and medicinal preparations and send them to other State drug control officials and to the Federal authorities.

8. Whereas the collaboration of Federal and State chemists has resulted to the mutual advantage of all concerned by bringing about greater efficiency, together with uniformity of methods; and whereas, since the bacteriological and microscopical examination of food and drugs is coming to be of increasingly great importance in the detection of certain forms of adulteration and decomposition: We therefore recommend collaboration between State and Federal bacteriologists and microscopists as being desirable for the same reasons that have made such collaboration of chemists both desirable and necessary.

9. Whereas in consideration of the vital importance and necessity for cooperation between the National and State food and drug control officials as herein set forth, we unanimously recommend to this association that a permanent standing committee on cooperation be appointed by the president of the association, such committee to consist of five members and its duties to be to endeavor to secure cooperation in the enforcement of the National Food and Drugs Act and the food and drugs acts of the several States, to aid in advancing

cooperation between the Federal and State food and drug control officials, and to promote cooperation among the State officials of the several States.

It is further recommended that the terms of office of the members of said committee be respectively one, two, three, four, and five years; that subsequently the term of office of each shall be for five years; and that the president of this association shall fill any vacancy in said committee, caused by death, resignation, or otherwise, for the unexpired term.

It is further recommended that the Secretary of Agriculture be requested to appoint one or more persons connected with the United States Department of Agriculture to meet and act with said committee on cooperation at all its meetings and to represent the said department in the deliberations of said committee.

It is further recommended that said committee be required to report at the annual meetings of this association the results of its efforts to accomplish such cooperation; and that said committee be empowered to take such steps as seem desirable in promoting such cooperation.

10. Whereas the meeting on cooperation held in May, 1911, in Washington, D. C., would have been impossible except for the courtesies and aid extended to the committee by the Secretary of Agriculture in placing at its disposal all facilities necessary for carrying on its work, we recommend that the secretary of this association be authorized to express to him and to his able representative, Dr. F. L. Dunlap, the thanks of this association for the many courtesies extended to your committee on this occasion.

11. Complete and full instructions have been sent to the collaborating officials in connection with their duties in the administration of the National food law. It has appeared, however, that certain of the directions as sent have not been sufficiently explanatory, and in order to make these points clearer to the collaborating officials it has seemed to the committee desirable to discuss more fully some of these steps. The committee wishes to express its thanks to Mr. W. P. Jones, of the Solicitor's Office of the United States Department of Agriculture, for the aid he has furnished them in working out the details of the explanations which follow in connection with this phase of the cooperative work.

The collaborators are referred to the manual of instructions issued by the Department of Agriculture, wherein general information on this subject is given.

Three things are necessary to successful prosecution of a case under section 2 of the Federal law:

1. The sample must have been shipped in interstate commerce.
2. The sample must be received by the analyst in the identical condition in which it was shipped from another State. (Sample must be an "unbroken package.")
3. The sample must have been adulterated or misbranded at the time it was shipped from another State.

The gist of the offense is the shipment, that is, in general, the delivery within a State of an article of food or drug to a carrier for transportation into another State. The contents of the sample must be in the exact condition in which they were shipped, in order that

the analyst or examiner may be able to testify to the composition of the article at the time it was shipped.

The regulations adopted by the three secretaries wisely provide that only those State officials holding commissions from the Secretary of Agriculture, and their agents, shall collect samples on which to base prosecutions under the law. The commissions issued by the Secretary must be carefully preserved so that they may be produced, if necessary, to show that samples were regularly collected. The commissioned State officials should issue similar commissions to their agents, which likewise must be preserved. What products shall be samples rests in the discretion of the commissioned State officials, subject to such requests as the Secretary of Agriculture may make from time to time. The commissioned State official shall instruct his agents what samples to collect, and only those samples can be used which are collected by agents within the authority conferred on them by the commissioned State official.

A commissioned State official, or his agent, when collecting a sample within his State which has been received from another State, Territory, or the District of Columbia, should keep in mind and use the forms provided by the Secretary of Agriculture. For example, if Mr. Woods, or his agent, finds in the State of Maine adulterated foods shipped into the State from Illinois, he should procure a sample and take the dealer's receipt therefor. This receipt should contain the information required on the Department of Agriculture form ("Dealer's receipt"), and is valuable for the purpose of identifying the samples with an interstate shipment. At least three packages should be procured, when practicable, and in bulk goods enough to subdivide into three parts. He should obtain from the dealer records (invoices, etc.) showing the sale of the shipment of which the sample is a part, and transportation records (waybills, freight receipts, etc.) covering the transportation of the shipment from Illinois to Maine. The dealer's receipt should be signed by a person who can identify the sample with the records of sale and transportation and who can testify that the sample delivered to the inspector was in the same condition as when received by the dealer. The records of sale and transportation may be originals or copies. Originals are preferable, but all records obtained should be initialed by the dealer so that he may identify them later. The samples should be sealed and marked by the collector, preferably using Department of Agriculture seals and marks. Other seals and marks which are sufficient to enable the inspector and the analyst to identify the samples and to testify that their contents were in the same condition when opened for analysis as at the time of purchase may be used. He should also prepare a report of collection, using Department of Agriculture "Inspector's description of sample book" and "Inspector's report of collection."

The reports should be delivered to Mr. Woods with all the samples except one, which should be turned over to Mr. Bartlett, the chemist in Maine appointed by the Secretary of Agriculture as collaborating chemist in the Bureau of Chemistry. Mr. Bartlett should examine the sample promptly and report the results to Mr. Woods, using the Department of Agriculture analytical sheet and chemist's report. Mr. Woods should keep a record of the sample on Department of Agriculture sample index card. If, in his opinion, Bartlett's report

shows the sample to be adulterated or misbranded, Woods should send to Jones in Illinois reports of the inspector and analyst, one of the samples, and ask him to cite shipper for hearing. Woods should notify the Secretary of Agriculture of his action. Jones should cite the shipper for hearing at once, fixing a reasonable time, and, if requested, should turn sample over to the shipper. Under regulation 6 hearings are private and confined to questions of fact. The Department of Agriculture form "Appointment for hearing" should be used and sent by registered mail. The return receipt card should be filed in the records of the case to show delivery of the notice. Everything which transpires at the hearing should be taken down by a stenographer and a transcript made. If it is impracticable to furnish a verbatim report of the hearing, the commissioned State official should dictate a summary of the hearing and have it transcribed immediately after the close of the hearing. The hearing should be conducted in accordance with regulation 5. For further information with respect to hearings the commissioned State official should consult Department of Agriculture Manual of Instructions, page 46. After the hearing Jones should send all the records received from Woods to the Secretary of Agriculture, together with the reports of the hearing. If it develops, however, that the shipper holds a guarantee under section 9 of the law and the guarantor resides in Illinois, Jones should cite the guarantor for hearing also before him, and report both hearings to the Secretary of Agriculture. Before the guarantor is appointed a hearing, complete information should be obtained from the shipper in the way of records of sale and shipment, identifying the sample in question with a shipment received from the guarantor. The form entitled "Supplementary statement relative to I. S. No. —" should be completed by the shipper. Jones should notify Woods when the hearings have been held and also when he has referred the case to the Secretary of Agriculture.

On receipt of the records by the Secretary of Agriculture they will be summarized by the Bureau of Chemistry and sent to the board of food and drug inspection for decision whether prosecution shall be had. After decision by the board for prosecution the solicitor will prepare the case for report to the Department of Justice. Woods and Jones will be notified of the decision of the board in prosecuted cases. Woods will be called upon for a sample to be examined by the collaborating chemist in Illinois to check Bartlett's results and also to make available to the United States attorney in Illinois, where the case will be tried, an analyst with whom he may confer in the preparation of the case. The results of the check analysis will be reported by Jones to Woods and to the Secretary of Agriculture. In cases where no check analysis is deemed necessary for the successful prosecution of the case the board of food and drug inspection will notify Woods and Jones accordingly. Both Woods and Jones should notify the Secretary of Agriculture of any pertinent facts in the case which may come to their notice at any time prior to its termination in court.

Suppose, on the other hand, that Mr. Jones finds that manufacturers or jobbers in Illinois are shipping adulterated or misbranded foods and drugs into the State of Maine in violation of the Federal law. He should instruct his inspectors to obtain information through the transportation companies, of the dates of shipment and

the names of consignees, and make a report to Mr. Woods giving him the details with regard to the shipment together with his reasons for believing that the articles shipped are adulterated or misbranded. With this report before him Mr. Woods will be enabled to make a prompt collection of a sample, have it examined, and proceed to prepare a case for prosecution against the shippers, as above outlined.

Or if, in his opinion the circumstances warrant such action, Mr. Woods may ask the United States attorney for the district of Maine to make a seizure of the shipment. Prompt action is necessary to effect seizures of foods and drugs. Adulterated and misbranded foods are liable to seizure under the law as long as they remain in the original unbroken packages—that is to say, generally speaking, packages in which they are shipped in interstate commerce. Under a recent decision of the Supreme Court it is immaterial whether adulterated or misbranded goods have been transferred out of the possession of the original consignee within the State. Proof is necessary, however, to show that the goods either are in the course of transportation from one State to another or have been transported from one State to another. In brief, the goods which it is proposed to seize must be identified with an interstate shipment. In presenting proposed seizures to the United States attorney, Mr. Woods, therefore, should furnish him with evidence in the form of freight bills, way-bills, express receipts, invoices, etc., when they are available, showing that the particular lot of goods have been transported in interstate commerce. If inspectors themselves witness the interstate transportation of goods, a statement to that effect to the United States attorney will take the place of records of interstate transportation. If Mr. Jones has furnished Mr. Woods with an analysis of a sample taken from the shipment or from other shipments of the same goods made on or about the same time, and this analysis shows that the goods are adulterated and misbranded, the United States attorney may be asked to seize the goods on the strength of this analysis. It is preferable, however, if there is time, that a sample should be obtained from the shipment after its arrival in the State of Maine and there analyzed. The reason for this is that to obtain a decree of condemnation or forfeiture it is necessary to show that goods are adulterated or misbranded at the time seizure is made. In the case of perishable goods it is necessary that an examination should be made of samples on their arrival within the State, and it may very well happen that goods which were not adulterated at the time they left the State of Illinois may be adulterated when they arrive within the State of Maine. It is possible also that goods shipped from Illinois may be relabeled or branded after their arrival in the State of Maine, so that, although misbranded at the time of shipment, they may not be misbranded in the hands of the consignee. Mr. Woods should advise the Secretary of Agriculture and Mr. Jones promptly of any action he may take with respect to asking United States attorneys to make seizures of adulterated foods shipped from Illinois. The report should be in detail, showing the facts of interstate transportation, the analytical results, particulars in which the goods are alleged to be adulterated and misbranded, and the action taken by the United States attorney. If the United States attorney accepts his recommendation, Mr. Woods should obtain and send to the Secretary of Agriculture a copy of the libel filed and should keep him

advised of the progress of the suit. Mr. Woods should ask the United States attorney to obtain authority from the court for him to take samples of the seized goods for analysis; a sufficient number of samples should be procured to be representative of the shipment. These samples should be sealed, marked, and analyzed as soon as possible after they are obtained. Mr. Woods should advise the Secretary of Agriculture of the number of samples obtained and whether he desires to have any of the samples examined by chemists outside the State of Maine. In contested cases it is frequently important to have examinations of samples made by different analysts, and it will generally be found expedient to have the analysis made by the collaborating chemists in Maine supplemented by analyses made either by the Bureau of Chemistry or by collaborating chemists in other States.

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